

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM B. FITZSIMMONS,

Plaintiff,

v.

TRACY MURGER, et al,

Defendant.

CASE NO. C10-5494RBL

ORDER

THIS MATTER comes on before the above-entitled court upon Plaintiff's Application to Proceed *In Forma Pauperis* on Appeal [Dkt. #16]. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Plaintiff is appealing the Judgment entered on this Court's Order Adopting Report and Recommendation denying his motion to proceed *in forma pauperis* and dismissing his Complaint as frivolous. Judgment was entered on October 13, 2010. [Dkt. #12]. Plaintiff's Notice of Appeal was filed on April 14, 2011. It is untimely. *See* Fed. R. App. P. 4(a). The Application also fails to conform to the requirements of Fed. R. App. P. 24(a)(1)(C) in that it does not "state the issues that the party intends to present on appeal." Finally, the appeal lacks an arguable basis

1 in law or fact and is thus frivolous. *See* Report and Recommendation, [Dkt. #10]; *see also*,
2 Order to Show Cause, [Dkt. #7].

3 Plaintiff's Application to Proceed *In Forma Pauperis* on Appeal [Dkt. #16] is **DENIED**.
4 Fed R. App. P. 24(a)(2).

5 **IT IS SO ORDERED.**

6 The Clerk shall send uncertified copies of this order to all counsel of record, to any party
7 appearing pro se, and to the United States Court of Appeals for the Ninth Circuit.

8 Dated this 20th day of April, 2011.

9
10
11
12 
BENJAMIN H. SETTLE

13 United States District Judge
14 for Ronald B. Leighton
United States District Judge
15
16
17
18
19
20
21
22
23
24